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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MONA ALLEN; PAUL RAY HARRIS;	)	Civil Action No.
SHAUN JONES; SCOTT OUTHOUT;	)	
ELVIN SIKES; NINA FAYE SIKES; NICOLE	)	<b>VERIFIED COMPLAINT FOR</b>
VAN SCHIACK; PRESTON WARREN;	)	<b>DECLARATORY RELIEF,</b>
CALIFORNIA CHAPTER OF THE	)	<b>TEMPORARY RESTRAINING</b>
NATIONAL ORGANIZATION FOR THE	)	<b>ORDER, PRELIMINARY</b>
REFORM OF MARIJUANA LAWS, and	)	<b>INJUNCTION AND</b>
DOES 1-200,	)	<b>PERMANENT INJUNCTION</b>
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
COUNTY OF LAKE, a municipal corporation;	)	
FRANCISCO RIVERO, in his individual and	)	
official capacities; CHRIS MACEDO, in his	)	
individual and official capacities; LOREN	)	
FREEMAN, in his individual and official capacities;	)	
RICHARD COEL, in his individual and official	)	
capacities, and DOES 1-50.	)	
	)	
Defendants.	)	

**I. INTRODUCTION**

1. Through their enactment of the Compassionate Use Act in 1996 and the Medical Marijuana Program Act in 2003, the California electorate and Legislature have promised

1 seriously ill Californians that they would be able to obtain and use marijuana where that use has  
 2 been deemed appropriate by a physician. In particular, the electorate has determined through its  
 3 1996 initiative that qualified medical marijuana patients may cultivate and possess amounts of  
 4 marijuana that are reasonably related to their personal medical needs. *People v. Kelly* (2010) 47  
 5 Cal.4th 1008, 1013; *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1549. Notwithstanding this  
 6 state law, the County of Lake (“Lake County” or “County”) arbitrarily limits the amount of  
 7 marijuana qualified medical marijuana patients may cultivate through its enactment of Ordinance  
 8 No. 2997, later codified as Measure N. *See* Ordinance No. 2997 (or “Measure N”) (attached  
 9 hereto as Exhibit 1)

11           2.       The crux of this case, however, is not about the arbitrary limitations of Measure  
 12 N, but, rather, is about the arbitrary, and unconstitutional way that it is being enforced. To  
 13 eradicate small amounts of marijuana under the Ordinance, six or more of the defendants raid the  
 14 residences medical marijuana patients without a warrant or advance notice, dressed in  
 15 camouflage military attire and bearing guns and sharp cutting instruments, to chop down their  
 16 plants. The fear they have created for all residents of the County of Lake violates both the  
 17 warrant and due process requirements of the state and federal constitutions. Injunctive relief is  
 18 needed to restore these constitutional principles.

## 21                                   **II. JURISDICTION AND VENUE**

22           3.       Plaintiffs bring this action to redress the deprivation of constitutional rights  
 23 secured to them, and others, by the Fourth, Fifth and Fourteenth Amendments to the United  
 24 States Constitution and Article I, Sections 7 and 19 of the California Constitution.

26           3.       This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and  
 27 1343, and 42 U.S.C. §§ 1983, 1985 and 1986. Plaintiffs also invoke supplemental jurisdiction  
 28

1 over their state law claims against defendants pursuant to 28 U.S.C. § 1367, as the state  
2 constitutional claims form part of the same case or controversy.

3 4. Venue is proper in this judicial district under 28 U.S.C. § 1391 because the events  
4 giving rise to the complaint occurred in the County of Lake, which is in this judicial district.

### 5 **III. THE PARTIES**

#### 6 **A. Plaintiffs**

7  
8 5. Plaintiff MONA ALLEN (“Allen”) is a resident of Lake County. She is a sixty-  
9 year-old qualified patient under the laws of the State of California and, together with her  
10 husband, cultivated six (6) mature and six (6) immature marijuana plants for their personal  
11 medical needs. On August 1, 2014, officers from the Lake County Sheriff’s Department, and  
12 possibly other agencies, came to their home without a warrant or prior notice to eradicate their  
13 medicine. Allen was not home at the time of the raid and did not consent to the search or  
14 seizure.  
15

16 6. Plaintiff PAUL RAY HARRIS (“Harris”) is a resident of Lake County. He is a  
17 sixty-six-year-old qualified patient under the laws of the State of California who cultivated nine  
18 (9) medical marijuana plants for his personal medical needs. On August 1, 2014, officers from  
19 the Lake County Sheriff’s Department, and possibly other agencies, came to his home without a  
20 warrant or prior notice to eradicate his medicine. Allen was not home at the time of the raid and  
21 did not consent to the search or seizure.  
22

23 7. Plaintiff SHAUN JONES (“Jones”) is a resident of Lake County. He is a thirty-  
24 year-old qualified patient under the laws of the State of California who cultivated six (6)  
25 immature medical marijuana plants to alleviate symptoms associated with insomnia and anxiety.  
26 On August 1, 2014, officers from the Lake County Sheriff’s Department, and possibly other  
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28

1 agencies, came to his home without a warrant or prior notice to eradicate his medicine. Jones did  
2 not consent to the search or seizure, which prompted the defendants to gain access to his  
3 property by lifting the gate, which was part of the fencing surrounding his medical marijuana  
4 garden, off its hinges.

5 8. Plaintiff SCOTT OUTHOUT is a resident of Lake County. He is a forty-five-  
6 year-old qualified patient under the laws of the State of California who cultivated four (4) mature  
7 medical marijuana plants and two (2) immature medical marijuana plants in accordance with  
8 California law. On August 1, 2014, approximately seven (7) officers from the Lake County  
9 Sheriff's Department, and possibly other agencies, came to his home without a warrant or prior  
10 notice to eradicate his medicine. Outhout was not at home at the time of the search and seizure  
11 and did not consent to the raid.  
12

13 9. Plaintiff ELVIN SIKES ("Sikes") is a resident of Lake County. He is a seventy-  
14 eight-year-old qualified patient under the laws of the State of California who, together with his  
15 wife, cultivated fourteen (14) immature medical marijuana plants to alleviate symptoms  
16 associated with lung cancer. On August 1, 2014, approximately six (6) officers from the Lake  
17 County Sheriff's Department, and possibly other agencies, came to his home without a warrant  
18 or prior notice to eradicate their medicine. Sikes did not voluntarily consent to the search or  
19 seizure, which prompted the defendants to gain access to his property by going through two  
20 fences to chop down the marijuana plants with sharp instruments.  
21

22 9. Plaintiff NINA FAYE SIKES ("Sikes") is a resident of Lake County. She is a  
23 seventy-year-old qualified patient under the laws of the State of California who, together with  
24 her husband, cultivated fourteen (14) immature medical marijuana plants in accordance with  
25 California law. On August 1, 2014, approximately six (6) officers from the Lake County  
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1 Sherriff's Department, and possibly other agencies, came to her home without a warrant or prior  
2 notice to eradicate their medicine. Sikes did not voluntarily consent to the search or seizure,  
3 which prompted the defendants to gain access to his property by going through two fences to  
4 chop down the marijuana plants with sharp instruments.

5 10. Plaintiff NICOLE VAN SCHAICK ("Van Schiack") is a resident of Lake County.  
6 She is a forty-four-year-old qualified patient under the laws of the State of California who  
7 cultivated twenty-five (25) medical marijuana plants to treat symptoms associated with the  
8 removal of her intestine in accordance with California law. On August 1, 2014, approximately  
9 six (6) officers from the Lake County Sherriff's Department, and possibly other agencies, came  
10 to her home without a warrant or prior notice to eradicate their medicine. Van Schaik was at  
11 home at the time of the raid, along with her five children, ages five to twenty-two. She did not  
12 voluntarily consent to the search or seizure, which prompted officer to threaten the arrest of her  
13 husband when he asked for a warrant.  
14

15 11. Plaintiff PRESTON WARREN ("Warren") is resident of Lake County. He is a  
16 sixty-three-year-old qualified patient under the laws of the State of California and, together with  
17 his wife, cultivated six (6) mature and six (6) immature marijuana plants for their personal  
18 medical needs. On August 1, 2014, offices from the Lake County Sherriff's Department, and  
19 possibly other agencies, came to their home without a warrant or prior notice to eradicate their  
20 medicine. Warren was not home at the time of the raid and did not consent to the search or  
21 seizure.  
22

23 12. Plaintiffs DOES 1 through 200 are a qualified medical marijuana patients who  
24 suffered similar fates as those plaintiffs described above. In particular, they suffered warrantless  
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1 searches and seizures without a warrant or advance notice. Plaintiffs are ignorant of their true  
2 identifies at this time and will amend the complaint once their true identities are known.

3 **B. Defendants**

4 13. Defendant COUNTY OF LAKE is, and at all times mentioned herein was, a  
5 municipal corporation within the State of California.  
6

7 14. Defendant FRANCISCO RIVERO is, and at all times mentioned herein was, the  
8 Sherriff of Lake County. He is sued in his individual and official capacities.

9 15. Defendant CHRIS MACEDO is, and at all times mentioned herein was, the acting  
10 Undersherriff of Lake County. He is sued in his individual and official capacities.  
11

12 16. Defendant LOREN FREEMAN is, and at all times mentioned herein was, a  
13 Warden with California's Fish and Wildlife agency. He is sued in his individual and official  
14 capacities.  
15

16 17. Defendant RICHARD COEL is, and at all times mentioned herein was, the  
17 Community Development Director of Lake County. He is sued in his individual and official  
18 capacities.

19 18. Plaintiff is ignorant of the true names of defendants sued herein as DOES 1  
20 through 50, inclusive, and therefore sues said defendants by such fictitious names. Plaintiff will  
21 amend this complaint to allege their true names and capacities when ascertained. Plaintiff is  
22 informed and believes and therefore alleges that each of the Doe defendants is legally  
23 responsible and liable for the injuries and damages hereinafter set forth, and that each of the said  
24 defendants proximately caused said injuries and damages by reason of their violation of  
25 constitutional and legal rights.  
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1           19. Each of the defendants caused and is responsible for the below-described unlaw  
 2 conduct and resulting injuries by, among other things: personally participating in the unlawful  
 3 conduct or acting jointly or conspiring with others who did so by authorizing, acquiescing or  
 4 setting in motion policies, plans or actions that led to the unlawful conduct; by failing to take  
 5 action to prevent the unlawful conduct; by failing and refusing with deliberate indifference to  
 6 plaintiffs' rights; and by ratifying the unlawful conduct that occurred by agents and officers  
 7 under their discretion and control, including failing to take remedial steps or disciplinary action.

#### 9                   **IV. FACTS APPLICABLE TO ALL CAUSES OF ACTION**

10           20. On November 4, 1996, California voters passed Proposition 215, which is  
 11 codified as "the Compassionate Use Act" at California Health & Safety Code § 11362.5, to  
 12 "ensure that seriously ill Californians have the right to obtain and use marijuana for medical  
 13 purposes. . . ." (*See* Health & Safety Code § 11362.5(b)(1)).

14           21. Seven years later, due to "reports from across the state [that] have revealed  
 15 problems and uncertainties in the [Compassionate Use Act] that have impeded the ability of law  
 16 enforcement officers to enforce its provisions as the voters intended and, therefore, prevented  
 17 qualified patients and designated primary caregivers from obtaining the protections afforded by  
 18 the act," the Legislature, on September 10, 2003, enacted Senate Bill 420, Stats. 2003 c.875 ("SB  
 19 420"), to clarify the CUA's protections. *See* SB 420 § 1(a)(2). This Act expressly allows  
 20 qualified patients and their primary caregivers to cultivate and possess sufficient quantities of  
 21 marijuana that is reasonably related to their personal medical needs. *People v. Kelly* (2010) 47  
 22 Cal.4th 1008, 1013; *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1549.

23           22. In furtherance of their cultivation of marijuana pursuant to State law, plaintiffs  
 24 expended significant time, money, and other resources.  
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1           23.     In violation of both the warrant and due process requirements of the state and  
2 federal constitutions, as further described in the attached declarations, defendants raided the  
3 residence of qualified medical marijuana patients and seized their property.

4           24.     An actual and substantial controversy exists between plaintiffs and defendant as  
5 to their respective legal rights and duties. Plaintiffs contend that, as applied to them and to  
6 others similarly situated, defendants enforcement of Measure N is unlawful and unconstitutional.  
7 Defendants contend the opposite.

8           25.     If not enjoined by the Court, defendants will continue to implement Measure N in  
9 derogation of the rights of plaintiffs and other similarly situated qualified medical marijuana  
10 patients. Such implementation will impose irreparable injury on the plaintiffs and these other  
11 persons.  
12

13  
14           26.     Plaintiffs have no plain, speedy, and adequate remedy at law.

15                               **V. CAUSES OF ACTION**

16                               **FIRST CAUSE OF ACTION**

17                               **Violation of Plaintiffs' Fourth Amendment Rights (42 U.S.C. §§ 1983 and 1985)**

18           27.     Plaintiffs reallege and incorporate by reference paragraphs 1 through 26 of this  
19 Complaint as though fully alleged herein.  
20

21           28.     By entering the residences (or cartilage) of plaintiffs' property without a warrant,  
22 defendants violated the Fourth Amendment to the United States Constitution, which is a  
23 violation of 42 U.S.C. §§ 1983 and 1985.  
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**SECOND CAUSE OF ACTION**

**Violation of Plaintiffs' Fourteenth Amendment Rights (42 U.S.C. §§ 1983 and 1985)**

29. Plaintiffs reallege and incorporate by reference paragraphs 1 through 28 of this Complaint as though fully alleged herein.

30. By entering the residences (or cartilage) of plaintiffs' property without advance notice or an opportunity for a hearing, defendants violated the Fourteenth Amendment to the United States Constitution, which is a violation of 42 U.S.C. §§ 1983 and 1985.

**THIRD CAUSE OF ACTION**

**Violation of California Constitution, article 1, § 7, subdivision (a) and Civil Code § 52.1**

31. Plaintiffs reallege and incorporate by reference paragraphs 1 through 30 of this complaint as though fully set forth herein.

32. Article 1, section 7, subdivision (a) of the California Constitution and Civil Code Section 52.1 prohibit the warrantless searches and seizures of property without a warrant.

33. By entering the residences (or cartilage) of plaintiffs' property without a warrant, defendants violated the California Constitution and the Bane Civil Rights Act, Cal. Civil Code § 52.1.

**FOURTH CAUSE OF ACTION**

**Violation of California Constitution, article 1, § 7, subdivision (a) and Civil Code § 52.1**

34. Plaintiffs reallege and incorporate by reference paragraphs 1 through 33 of this complaint as though fully set forth herein.

35. Article 1, section 7, subdivision (a) of the California Constitution and Civil Code Section 52.1 prohibit the warrantless searches and seizures of property without a due process.



7. Such other and further relief as may be just and proper.

DATED: August 28, 2014

JOSEPH D. ELFORD

Counsel for Plaintiffs

**VERIFICATION**

I declare that my offices are located in the County of San Francisco, which is not the same county as the named plaintiffs, so I verify this Complaint on their behalf.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this \_\_\_ day of July, in San Francisco, California.

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JOSEPH D. ELFORD

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial of this action.

DATED: August 28, 2014

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JOSEPH D. ELFORD

Counsel for Plaintiffs